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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 10th November, 1965:—

BILL No. 69 OF 1965

A Bill to provide for the acquisition of the undertaking of the Metal Corporation of India Limited for the purpose of enabling the Central Government in the public interest to exploit, to the fullest extent possible, zinc and lead deposits in and around the Zawar area in the State of Rajasthan and to utilise those minerals in such manner as to subserve the common good.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Metal Corporation of India (Acquisition of Undertaking) Act, 1965. Short title and commencement.

(2) It shall be deemed to have come into force on the 22nd day of October, 1965.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "administrator" means an administrator appointed under section 13;

(*b*) "company" or "the Metal Corporation of India" means the Metal Corporation of India Limited, being a company as defined in the Companies Act, 1956, having its registered office at Calcutta; 1 of 1956.

(*c*) "Tribunal" means the Tribunal constituted under section 11;

(*d*) words and expressions used but not defined in this Act and defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act. 1 of 1956.

CHAPTER II

ACQUISITION OF THE UNDERTAKING OF THE METAL CORPORATION OF INDIA

Undertaking of company to vest in Central Government.

3. On the commencement of this Act, the undertaking of the company shall, by virtue of this Act, be transferred to, and vest in, the Central Government.

General effect of vesting under section 3.

4. (*1*) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined or extracted zinc or lead ores, concentrates and metals, in process or in stock or in transit, cash balances, cash on hand, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the commencement of this Act in the ownership, possession, power or control of the company in relation to the undertaking, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the company in relation to the undertaking.

(2) All property vesting in the Central Government under sub-section (*1*) shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other encumbrances affecting it, and any attachment, injunction or any decree or order of a court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Subject to the other provisions contained in this Act, all contracts and working arrangements which are subsisting immediately before the commencement of this Act and affecting the company shall, in so far as they relate to the undertaking of the company, cease to have effect or be enforceable against the company or any person who was surety or had guaranteed the performance thereof and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectually as if instead of the company the Central Government had been named therein or had been a party thereto.

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the company in relation to its undertaking may, as from such commencement, be continued and enforced by or against the Central Government as it might have been enforced by or against the company if this Act had not been passed, and shall cease to be enforceable by or against the company, its surety or guarantor.

Provisions respecting officers and employees of the company.

5. (1) Every officer or other employee of the company (except a director or any managerial personnel specified in section 197A of the Companies Act, 1956, or any other person entitled to manage the whole or a substantial part of the business of the company under a special agreement) in the employment of the company immediately before the commencement of this Act shall, in so far as such employee is employed in connection with the affairs of the undertaking of the company, become as from such commencement, an officers or other employee, as the case may be, of the Central Government and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held under the company if this Act had not been passed and shall continue to do so unless and until his employment in the Central Government is terminated or until his remuneration, terms and conditions are duly altered by the Central Government:

1 of 1956.

Provided that if the alteration so made is not acceptable to any such officer or employee, his employment may be terminated by the Central Government on payment to him by the Central Government of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees:

Provided further that nothing contained in this section shall apply to any officer or other employee who has, by notice in writing given to the Central Government within thirty days next following

the commencement of this Act, intimated his intention of not becoming an officer or other employee of the Central Government.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee of the company shall not entitle any such officer or employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, Tribunal or other authority. 14 of 1947.

Directors and managing agents not entitled to compensation.

6. Notwithstanding anything contained in any law for the time being in force, no director or managerial personnel specified in section 197A of the Companies Act, 1956, or other person entitled to manage the whole or a substantial part of the business and affairs of the company under a special agreement shall be entitled to any compensation against the company or the Central Government for the loss of office or for the premature termination of any contract of management entered into by him with the company. 1 of 1956.

Duty to deliver possession of property acquired and documents relating thereto.

7. (1) Where any property has vested in the Central Government under section 3, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government forthwith.

(2) Any person who, on the commencement of this Act, has in his possession or under his control any books, documents or other papers relating to the company which has vested in the Central Government under this Act and which belong to the company or would have so belonged if the undertaking of the company had not been acquired shall be liable to account for the said books, documents and papers to the Central Government and shall deliver them up to the Central Government or to such person as the Central Government may specify in this behalf.

(3) The Central Government may take all necessary steps for securing possession of all properties which have vested in that Government under section 3.

Duty to furnish particulars

8. The company shall, within thirty days from the commencement of this Act or within such further period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the company at the commencement of this Act, all liabilities and obligations of the company subsisting at such commencement and also of all agreements entered into by the company and in force on such commencement including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service

of any officer or other employee of the company under which, by virtue of this Act, the Central Government has, or will have, or may have, liabilities except such agreements as that Government may exclude from the operation of this section, and for this purpose, the Central Government shall afford the company all reasonable facilities.

Right of Government to disclaim certain agreements.

9. (1) Where it appears to the Central Government that the making of any agreement under which the company has or will have or may have liabilities was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, the Central Government may, within one year from the commencement of this Act, apply to the Tribunal for relief from the agreement and the Tribunal, if satisfied after making such inquiry in the matter as it thinks fit that the agreement was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.

(2) All the parties to the agreement which is sought to be cancelled or varied under this section shall be made parties to the proceeding.

Compensation for acquisition of undertaking.

10. (1) The Central Government shall pay compensation to the company for the acquisition of the undertaking of the company and such compensation shall be determined in accordance with the principles specified in the Schedule and in the manner hereinafter set out, that is to say.—

(a) where the amount of compensation can be fixed by agreement, it shall be determined in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall refer the matter to the Tribunal within a period of three months from the date on which the Central Government and the company fail to reach an agreement regarding the amount of compensation.

(2) Notwithstanding that separate valuations are calculated under the principles specified in the Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.

(3) The amount of compensation determined in accordance with the foregoing provisions shall be paid to the company in cash within a period of six months from the date of such determination:

Provided that if compensation is not paid within the period aforesaid, the Central Government shall pay interest on the amount of compensation at the rate of four per cent. per annum from the date of expiry of the said period.

CHAPTER III

TRIBUNAL

Constitution of Tribunal.

11. (1) The Central Government may for the purposes of this Act constitute a Tribunal which shall consist of a single person who is, or has been, or is qualified to be, a Judge of a High Court or of the Supreme Court.

(2) The Tribunal may choose one or more persons possessing special knowledge of any matter relating to any case under inquiry to assist the Tribunal in determining any question which has to be decided by it under this Act.

(3) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents or other material objects producible as evidence;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents.

(4) The Tribunal shall have power to regulate its own procedure and decide all matters within its competence, and may review any of its decisions in the event of there being a mistake on the face of the record or correct any arithmetical or clerical error therein but subject thereto, the decision of the Tribunal on any matter within its jurisdiction shall be final and conclusive.

CHAPTER IV

MANAGEMENT AND ADMINISTRATION OF THE UNDERTAKING

Formation of Government company for management of undertaking.

12. For the efficient management and administration of the undertaking of the company vested in the Central Government by virtue of this Act, that Government may form a Government company in accordance with the provisions of the Companies Act, 1956 and on the formation of such company, the undertaking together with all its properties assets, liabilities and obligations specified in 1 of 1956.

sub-section (*1*) of section 4 and such other properties, assets, liabilities and obligations as may hereafter be acquired or incurred for the purposes of the undertaking shall, by virtue of this Act, stand transferred to, and vest in, that Government company.

Appointment of administrators.

13. (*1*) **Pending the formation of the Government company referred to in section 12, the Central Government may appoint one, or more than one, administrator for the efficient management and administration of the undertaking.**

(*2*) Such administrator or administrators shall, in the management and administration of the undertaking, act in accordance with such directions, if any, as may be issued by the Central Government in this behalf.

CHAPTER V

MISCELLANEOUS

Penalties

14. (*1*) Any person who—

(*a*) having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the Central Government or wilfully applies it to purposes other than those expressed in or authorised by this Act; or

(*b*) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the Central Government under this Act; or

(*c*) wilfully withholds or fails to furnish to the Central Government or any person specified by that Government as required by sub-section (*2*) of section 7 any document which may be in his possession, custody or control; or

(*d*) wilfully fails to furnish any particulars required under section 8; or

(*e*) when required to furnish any such particulars, furnishes any particulars which are false and which he either knows or believes to be false or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (*a*) or clause (*b*) of this sub-section may, at the time of convictig the

accused person, order him to deliver up or refund within a time to be fixed by the court any property wrongfully withheld or wilfully misapplied or wrongfully obtained.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

Protection of action taken under this Act.

15. No suit, prosecution or other legal proceeding shall lie against the Central Government or an administrator or an officer or other employee serving in connection with the affairs of the undertaking for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

16. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

Repeal and saving.

17. (*1*) The Metal Corporation of India (Acquisition of Undertaking) Ordinance, 1965, is hereby repealed. 6 of 1965

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

THE SCHEDULE

(*See* section 10)

PRINCIPLES FOR DETERMINING COMPENSATION FOR ACQUISITION OF THE UNDERTAKING

Paragraph I.—The compensation to be paid by the Central Government to the company in respect of the acquisition of the undertaking thereof shall be an amount equal to the sum total of the value of the properties and assets of the company on the date of commencement of this Act calculated in accordance with the provisions of paragraph II *less* the sum total of the liabilities and obligations of the company as on the said date calculated in accordance with the provisions of paragraph III.

Paragraph II.—(*a*) The market value of any land or buildings;

(*b*) the actual cost incurred by the company in acquiring any plant, machinery or other equipment which has not been worked or used and is in good working condition and the written-down value (determined in accordance with the provisions of the Income-tax Act, 1961) of any other plant, machinery or equipment;

43 of 1961.

(*c*) the market value of any shares, securities or other investments held by the company;

(*d*) the total amount of the premiums paid by the company in respect of all leasehold properties reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(*e*) the amount of debts due to the company, whether secured or unsecured, to the extent to which they are reasonably considered to be recoverable;

(*f*) the amount of cash held by the company, whether in deposit with a bank or otherwise;

(*g*) the value of all tangible assets and properties other than those falling within any of the preceding clauses.

Paragraph III.—The total amount of liabilities and obligations incurred by the company in connection with the formation, management and administration of the undertaking and subsisting immediately before the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

India is primarily dependent upon imports for meeting the requirements of lead and zinc, both of which are essential raw materials to the industry and are of considerable strategic importance. Presently, lead and zinc ore deposits in Zawar area in Rajasthan are the only known sources which can be worked on commercial scale. This area was held under lease by the Metal Corporation of India Limited, a company as defined in the Companies Act, 1956, which has its registered office in Calcutta.

2. Under an industrial licence granted to it (original licence granted in 1960 and amended in 1961), the company undertook a scheme to increase mine production, set up a zinc smelter for producing electrolytic grade zinc and by-products and to expand its lead smelter. The company had originally estimated the cost of the scheme at Rs. 670 lakhs. Subsequently, the company indicated increase in the cost of the scheme to Rs. 1,263 lakhs. The company was, however, unable to raise finances necessary for completing the project. On an examination it was found that the company would require about Rs. 6 crores in rupee finance and Rs. 1 crore in foreign exchange to complete the project. It was also found that the company had ordered much of the equipment, some of which had arrived and was awaiting erection; some was lying at Bombay Port and incurring demurrage and some was awaiting shipment for want of letter of credit. The company had taken several loans, defaulted in the repayment of loans and in meeting the payments due on deferred loans and was in serious financial difficulties. Any further loan to the company as asked for by it was, therefore, considered inadvisable. Besides, the company was unable to raise additional equity to match the loan capital.

3. For want of finances, the construction work on the scheme had almost come to a standstill. Unless immediate action was taken to complete the project and run the equipment and machinery, there was risk of deterioration and much of the expenditure incurred on the project might have become infructuous. Serious shortages of zinc metal developed in vital sectors of Defence and industry following the aggression by Pakistan and it also became apparent that imports of this metal even on a limited scale may not be possible.

This situation had added a new and compelling urgency to the necessity of taking immediate steps for the completion of the project undertaken by the company and developing the Zawar deposits.

4. The potentialities of Zawar area in regard to zinc and lead deposits are large and it is essential that the full potential of this area should be realised at the earliest. Exploration of the area and the development thereof would require large investments. The company was unable to complete even the limited scheme it had undertaken for the exploitation of the deposits. It was therefore in urgent national interest that the present scheme undertaken by the company should be completed as soon as possible and further steps taken for the development and realization of the potentialities of the deposits. As Parliament was not in session, the undertaking of the Metal Corporation of India was acquired under an Ordinance, namely, the Metal Corporation of India (Acquisition of Undertaking) Ordinance, 1965 (6 of 1965). It is now proposed that the Ordinance be replaced by an Act of Parliament.

NEW DELHI;
The 2nd November, 1965.

N. SANJIVA REDDY.

FINANCIAL MEMORANDUM

1. *Acquisition and Compensation.*—Clause 4 of the Bill describes the details of the undertaking transferred to and vested in the Central Government. The undertaking includes all assets, rights, leaseholds, property including lands, buildings, works, mines, workshops, projects, etc., cash balances, cash on hand, reserve funds and all borrowings, liabilities and obligations.

Clause 10 provides for payment of compensation for the acquisition of the above undertaking. The principles for determining the compensation payable are specified in the Schedule. The actual compensation payable will be known after a complete inventory of all assets and liabilities is taken and their value determined in accordance with the Schedule. It may, however, be mentioned that as on 1st April, 1964 (the latest date for which balance-sheet is available), the total paid-up capital and the reserves and surpluses of the company were of the order of Rs. 2.70 crores, and besides, the company had taken secured loan of the order of Rs. 4.4 crores and unsecured loan of the order of Rs. 77 lakhs. Besides paying compensation to the company, the Government will have to take over the liabilities and obligations incurred by the company in connection with the formation, management and administration of the undertaking and subsisting immediately before the acquisition by the Government.

2. *Administration.*—Clause 13 of the Bill provides for the appointment of one or more administrators for the efficient management and administration of the undertaking. This involves expenditure on the pay and allowances of the administrator. The expenditure on this account is likely to be of the order of Rs. 10,000. The management and administration of the undertaking are intended to be entrusted to a Government company at the earliest. Pending the formation of the Government Company which is expected to be set up within a short time, some expenditure of about Rs. 1 lakh is likely to be incurred in connection with the remuneration of Company's staff whose services are being transferred to the Government under clause (5).

3. *Tribunal.*—Clause 11 of the Bill provides for the appointment of a Tribunal consisting of a single person who is or has been or is qualified to be a Judge of a High Court or of the Supreme Court. The Tribunal is also empowered to choose one or more persons to

assist it in determining any question which has to be decided by it under the Bill. The Tribunal will have the powers of a civil court.

The Tribunal will be appointed if no agreement can be reached on the compensation to be paid. The constitution of the Tribunal and its working will involve some expenditure. When the Tribunal is constituted, expenditure of about Rs. 6,000 per month will be incurred on the salary of the Judge and his staff and contingencies. Assuming that the Tribunal will be required for a period of six months, the total expenditure may amount to about Rs. 36,000.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act and all these would pertain to matters of detail or procedure. The delegation of legislative power involved is of a normal character.

S. L. SHAKDHER,
Secretary.

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